

1 PRUETZ LAW GROUP LLP  
 Adrian M. Pruetz (Bar No. 118215)  
 2 ampruetz@pruetzlaw.com  
 1600 Rosecrans Avenue, 4th Floor  
 3 Manhattan Beach, CA 90266  
 Telephone: (310) 321-7640  
 4 Facsimile: (310) 321-7641

5 QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP  
 Brian C. Cannon (Bar No. 193071)  
 6 briancannon@quinnemanuel.com  
 Tun-Jen Chiang (Bar No. 235165)  
 7 tjchiang@quinnemanuel.com  
 555 Twin Dolphin Drive, Suite 560  
 8 Redwood Shores, California 94065-2139  
 Telephone: (650) 801-5000  
 9 Facsimile: (650) 801-5100

10 Attorneys for Defendants and Counterclaimants  
 Roche Molecular Systems, Inc.; Roche Diagnostics  
 11 Corporation; and Roche Diagnostics Operations, Inc.

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 THE BOARD OF THE TRUSTEES OF THE  
 LELAND STANFORD JUNIOR UNIVERSITY,

15 Plaintiff,

16 vs.

17 ROCHE MOLECULAR SYSTEMS, INC.; ROCHE  
 18 DIAGNOSTICS CORPORATION; ROCHE  
 DIAGNOSTICS OPERATION, INC.,

19 Defendant.

CASE NO. C-05-04158-MHP

STATEMENT OF RECENT DECISION

Date: April 9, 2007  
 Time: 2:00 PM  
 Dept. 15, 18<sup>th</sup> Floor

Hon. Marilyn Hall Patel

21 ROCHE MOLECULAR SYSTEMS, INC.; ROCHE  
 22 DIAGNOSTICS CORPORATION; ROCHE  
 DIAGNOSTICS OPERATION, INC.,

23 Counterclaimants,

24 vs.

25 THE BOARD OF THE TRUSTEES OF THE  
 LELAND STANFORD JUNIOR UNIVERSITY;  
 26 THOMAS MERIGAN AND MARK HOLODNIY,

27 Counterclaim Defendants.

1 Pursuant to Local Rule 7-3(d), Roche Molecular Systems, Inc. et al. ("Roche"), hereby  
2 submits the attached recent judicial decision, *Central Admixture Pharmacy Servs. v. Advanced*  
3 *Cardiac Solutions, P.C.*, No. 2006-1307 (Fed. Cir. April 3, 2007) that is relevant to Roche's  
4 "Motion For Certification Of Memorandum And Order Re Cross Motions For Summary  
5 Judgment Pursuant To 28 U.S.C. § 1292(b) And Request For Stay Of Proceedings" (Docket No.  
6 144). This recent judicial decision was published April 3, 2007, after Roche filed its March 30,  
7 2007 reply papers in connection with its request for certification.

8 As set forth in Roche's request for certification, in the February 23, 2007 Summary  
9 Judgment Order, the Court cited and relied upon *TM Patents v. IBM*, 121 F.Supp. 2d 349  
10 (S.D.N.Y. 2000) and *FilmTec v. Hydranautics*, 982 F.2d 1546 (Fed. Cir. 1992) to find: "under  
11 the Bayh-Dole Act, title vests automatically in the government, not the inventor." Docket No.  
12 139 at page 21. The attached recent judicial decision addresses whether the government receives  
13 automatic title under the Bayh-Dole Act. *Central Admixture Pharmacy Servs. v. Advanced*  
14 *Cardiac Solutions, P.C.*, No. 2006-1307, slip op. at page 8 (Fed. Cir. April 3, 2007) ("title  
15 remains with the named inventors or their assignees. Nothing in the statute, regulations or our  
16 caselaw indicates that title is automatically forfeited. The government must take an affirmative  
17 action to establish its title and invoke forfeiture.").

18  
19 DATED: April 4, 2007

Respectfully submitted,

20 PRUETZ LAW GROUP

21 QUINN EMANUEL URQUHART OLIVER &  
22 HEDGES, LLP

23 By

24 /s/

25 Brian C. Cannon  
26 Attorneys for Defendants and Counterclaimants  
27 Roche Molecular Systems, Inc.; Roche Diagnostics  
28 Corporation; and Roche Diagnostics Operations,  
Inc.